

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO.1780 OF 2004

Shri Pandurang Doulu Padalkar & Ors. : Petitioners
V/s.

Shri Dinkar Vithal Padalkar & Ors. : Respondents

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Mr.G.N.Salunke for the petitioners.

Mr.N.D.Hombalkar for the respondent nos.1 to 3.

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CORAM : S.A. BOBDE, J.

September 29, 2005.

P.C.:

1. Rule, returnable forthwith.

Mr.Hombalkar, the learned counsel for the
respondent nos.1 to 3, waives service of rule.

Heard by consent.

2. The petitioners have challenged the order of the
Asstt. District Collector dated 28.1.2002 under section
5(2) of the Mamlatdar Courts Act. The petitioners are
owners of gat no.101 and claim to have constructed a
katcha house in the said gat. They, therefore, applied
under the Mamlatdar Courts Act for directing the

respondents, who are the owners of the adjoining gat no.96, to remove the obstruction on the road leading to this katcha house. The Mamlatdar held in favour of the petitioners and directed the respondents to remove the obstruction on the road said to be existing in gat no.96.

3. This order has been reversed by the Asstt. District Collector who has found as a fact that the petitioners have constructed the katcha house without permission on gat no.101 and they have other houses at other places where they are residing since the last 50 years. This finding is recorded on the basis of the Gram Panchayat record. The house to which the petitioners claim access through the respondents' gat no.96 appears to have been constructed for keeping cattle and recorded as gotha in the Gram Panchayat record. The revisional authority has, on the basis of the oral inspection of gat no.96, observed that the gat is cultivated by them and that no permission was given by the petitioners to construct the house on land gat no.101. In other words, there was no reason, therefore, to grant access to the petitioners who constructed the house on their own on gat no.101. The revisional authority has rightly observed that if it is held that there is such a road and that the owners of gat no.96 cannot use that portion, then it would prevent them

from cultivating the said portion of the land. There is no error, jurisdictional or otherwise in the order.

4. Accordingly, the petition is dismissed. The rule is discharged.

S.A. BOBDE, J.